IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

and
THE HON'BLE MR JUSTICE Ch.S.R.K. PRASAD

WRIT PETITION NO : 20163 of 2004

Between:

K. Kiran Kumar Reddy, S/o. Kasieswar Reddy,
R/o. Chinna Vaduguru Village,

Pedda Vaduguru Mandal, Anantapur District. **..... PETITIONER**

AND

1 The Collector and Direct Magistrate, Anantapur.
2 The Prl. Secretary for Home, Secretariat, Hyderabad.
3 The Superintendent, Central Prison,

Cherlapalli, R.R.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Habeas Corpus under Article 226 of Constitution of India directing the respondents to produce M. Pratap Reddy,S/o. M.Veera Reddy, now detained in Central Prison, Cherlapalli before this Hon'ble Court and may be ordered to release forthwith declaring that his detention is illegal and void.

Counsel for the Petitioner: MR.T.PRADYUMNA KUMAR REDDY

Counsel for the Respondents: THE ADVOCATE GENERAL

The Court made the following :

ORDER: (PER HON'BLE SRI JUSTICE BILAL NAZKI)

Heard learned Counsel for the parties. During the hearing of the matter, counter has been filed.

This writ petition is filed challenging the order of detention passed by the Collector and District Magistrate, Ananthapur, detaining the detenue in terms of the provisions of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug-offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (herein after referred as 'the Act').

The case of the petitioner is that the order of detention passed by the first respondent is illegal. In this connection, various grounds have been raised in the writ petition, and one of the grounds taken to challenge the order of detention, relates to ground No.6 in grounds of detention, which stated that the detenue was involved in a case under Explosive Substances Act and a crime was registered against him, being Cr.No.150 of 2004. The argument is that a Goonda is defined in terms of Section 2 (g) of the Act which reads as under:

> *" 'Goonda' means a person, who either by himself or as a member of or leader of a gang, habitually commits, or attempts to commit or abets the commission of offences punishable under Chapter XIV or Chapter XVII or Chapter XXII of the Indian Penal Code"*

It is submitted that the person who commits offence or attempts to commit or abet the commission of offence punishable under Chapter XIV or Chapter XVII or Chapter XXII of the Indian Penal Code, would be Goonda, and a person, who is a habitual offender under any other law would not be a Goonda, within the meaning of the Act. This interpretation of Section 2 (g) of the Act has already been accepted by this Court in various judgments, as such, this ground could not be sustained. Therefore, the whole of the order of detention cannot be sustained, because the grounds of detention in terms of the Act are not separable. If the detention fails on one ground, all other grounds become irrelevant. It has also consistently been held by this Court.

For these reasons, we allow the writ petition, quash the order of detention, dated 17-09-2004, passed by the first respondent, and order the immediate release of the detenue, provided he is not needed in any other case.

(BILAL NAZKI, J)

24th November, 2004

(Ch.S.R.K.PRASAD, J)

LUR

Copy to:

1 The Collector and Direct Magistrate, Anantapur.
2 The Prl. Secretary for Home, Secretariat, Hyderabad.
3 The Superintendent, Central Prison,

Cherlapalli, R.R.District.

4. The Advocate General,

High Court Buildings,

High Court of A.P., Hyderabad.

5. Two CD copies.